UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

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Appeal 2009-003814
Application 09/891,545
Technology Center 2400

_____

Ex parte DOMINIQUE CHANTRAIN, STEPHANE FOCANT,
CHRISTIAN HUBLET, CHRISTIAN SIERENS and YVES T'JOENS

_____

Decided: December 09, 2009

Before JEAN R. HOMERE, THU A. DANG, and CAROLYN D.
THOMAS, *Administrative Patent Judges.*

DANG, *Administrative Patent Judge.*

DECISION ON APPEAL
I. STATEMENT OF CASE

    Appellants appeal the Examiner's final rejection of claims 1-13 under

35 U.S.C. § 134 (2002). We have jurisdiction under 35 U.S.C. § 6(b)

(2002).

    We affirm.

A. INVENTION

According to Appellants, the invention relates to data communication systems and more particularly to an access method implemented in a network access server for enabling end-users to access the core network (Spec. 1, ll. 8-10).

B. ILLUSTRATIVE CLAIM

Claim 1 is exemplary and is reproduced below:

1. A method for enabling a user registered in an Network Access Server as already connected to a host Virtual Private Network to communicate with at least one communication device outside of said host Virtual Private Network, said Network Access Server having access over a data communication network to said communication device and to a plurality of Virtual Private Networks including said host Virtual Private Network, wherein said method comprises:

    detecting a message being sent from said user to said communication device while said user is currently connected to said host Virtual Private Network; and

    directing said message to a logical channel between said Network Access Server and said communication device, wherein said logical channel has, as a logical channel identifier, an identifier of said host Virtual Private Network to which said user is currently connected

C. REJECTIONS

The prior art relied upon by the Examiner in rejecting the claims on appeal is:

Provino   US 6,557,037 B1   Apr. 29, 2003
                                                              (filed May 29, 1998)

Claims 1-13 stand rejected under 35 U.S.C. § 102(e) as anticipated by the teachings of Provino;

II. ISSUE

The issue is whether Appellants have shown that the Examiner erred in determining that Provino discloses "detecting a message being sent from said user to said communication device while said user is currently connected to said host Virtual Private Network" (claim 1).

III. FINDINGS OF FACT

The following Findings of Fact (FF) are shown by a preponderance of the evidence.

Provino

1.   Provino discloses a system which includes a virtual private network (VPN) and an external device interconnected by a digital network (Abstract), wherein firewall 30 serves to control access by devices external to the VPN 15 to servers 31 within the VPN (col. 9, ll. 13-15; Fig. 1).

2.   Communications between devices external to the VPN 15, such as device 12(*m*), and a device, such as a server 31(*s*) inside the VPN 15, may be maintained over a secure tunnel between the firewall 30 and the external device to maintain the communications secret while being transferred over the Internet 14 and through the ISP 11 (col. 9, ll. 32-38).

3.   Establishment of a secure tunnel can be initiated by device 12(*m*) external to the VPN 15, where the device 12(*m*), in response to a request from its operator, generates a message packet for transfer through the ISP 11 and Internet 14 to the firewall 30 requesting establishment of a secure tunnel between the device 12(*m*) and firewall 30, and the message packet is directed to a predetermined integer Internet address associated with the firewall 30 which is reserved for secure tunnel establishment requests, and which is known to and provided to the device 12(*m*) by the nameserver 17 (col. 9, ll. 46-56).

4.   The Internet address in the request message packet may be associated with a device 13 external to the VPN as well as with a server 32(*s*) in the VPN 15 (col. 13, ll. 46-53).

IV. PRINCIPLES OF LAW

35 U.S.C. § 102

In rejecting claims under 35 U.S.C. § 102, "[a] single prior art reference that discloses, either expressly or inherently, each limitation of a claim invalidates that claim by anticipation." *Perricone v. Medicis Pharm. Corp.*, 432 F.3d 1368, 1375 (Fed. Cir. 2005) (citation omitted). "Anticipation of a patent claim requires a finding that the claim at issue 'reads on' a prior art reference." *Atlas Powder Co. v. IRECO, Inc.*, 190 F.3d 1342, 1346 (Fed Cir. 1999) "In other words, if granting patent protection on the disputed claim would allow the patentee to exclude the public from practicing the prior art, then that claim is anticipated, regardless of whether it also covers subject matter not in the prior art." *Id.* (citations omitted).

The *claims* measure the invention. *See SRI Int'l v. Matsushita Elec. Corp.*, 775 F.2d 1107, 1121 (Fed. Cir. 1985) (en banc). "[T]he PTO gives claims their 'broadest reasonable interpretation.'" *In re Bigio*, 381 F.3d 1320, 1324 (Fed. Cir. 2004) (quoting *In re Hyatt*, 211 F.3d 1367, 1372 (Fed. Cir. 2000)). "Moreover, limitations are not to be read into the claims from the specification." *In re Van Geuns*, 988 F.2d 1181, 1184 (Fed. Cir. 1993) (citing *In re Zletz*, 893 F.2d 319, 321 (Fed. Cir. 1989)).

Of course, anticipation "is not an 'ipsissimis verbis' test." *In re Bond*, 910 F.2d 831, 832-33 (Fed. Cir. 1990) (citing *Akzo N.V. v. United States Int'l Trade Comm'n*, 808 F.2d 1471, 1479 n.11 (Fed. Cir. 1986)). "An anticipatory reference . . . need not duplicate word for word what is in the

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claims." *Standard Havens Prods., Inc., v. Gencor Indus., Inc.,* 953 F.2d
1360, 1369 (Fed. Cir. 1991).

V. ANALYSIS

Appellants argue that Provino does not anticipate the claims because
"there must be a teaching in Provino that such a user is maintaining its
connection to the VPN 15 while at the same time communicating with one
of these other devices [outside of the VPN 15]" (App. Br. 12). In particular,
Appellants contend that, in Provino, "the secure tunnel is only used for
communication between a user connected to the VPN and devices inside of
the VPN," whereas "claim 1 is directed to communications between a user
connected to the VPN and a device outside of the VPN" (*id.*).

The Examiner finds that "Provino's device to 12(m) communicates
with external devices along paths 16 'TO/FROM ACCESSED DEVICES' in
Fig. 1," and that "the returned network address to the user 12(m) also
corresponds to the human-readable Internet address for <u>device 13 external to
the VPN 15</u>" (Ans. 9, 10). Thus, according to the Examiner, "Provino's
invention is very similar to Appellant[s'] in so many ways" (Ans. 11).

Accordingly, the issue that we address on appeal is whether Provino
discloses "detecting a message being sent from said user to said
communication device while said user is currently connected to said host
Virtual Private Network" (claim 1).

We begin our analysis by giving the claims their broadest reasonable interpretation. *See In re Bigio*, 381 F.3d at 1324. Furthermore, our analysis will not read limitations into the claims from the specification. *See In re Van Geuns*, 988 F.2d at 1184. Claim 1 simply does not place any limitation on what a "user" or a "communication" means, includes or represents, other than that the "communication device" is "outside of said host Virtual Private Network," and that the "user" is "to said communication device" (claim 1).

Provino discloses a system which includes a VPN interconnected to an external device (FF 1), wherein communications between devices external to the VPN and a device inside the VPN are maintained over a secure tunnel between the firewall and the external device (FF 2-3). Thus, contrary to the Appellants' assertion that "the secure tunnel is only used for communication between a user connected to the VPN and devices inside of the VPN" (App. Br. 12), and Provino clearly teaches that the secure tunnel is used for communication between the VPN and devices outside of the VPN. We find that an artisan skilled in the art would have understood the communication between the VPN and the devices outside of the VPN but is connected to the VPN to include receiving a message from the "user to said communication device [outside of the VPN] while said user is currently connected to" the VPN, as required by claim 1.

Though Appellants also contend that Provino also does not teach that the ISP 11 "will establish a logical channel to such other external device, and will use a logical channel identifier [as] an identifier of the VPN 15"

(App. Br. 13), the Examiner finds that "the returned network address to the user 12(m) also corresponds to the human-readable Internet address for device 13 external to the VPN 15" (Ans. 10).

Provino discloses that a message packet is directed to a predetermined integer Internet address associated with the firewall 30 which is reserved for secure tunnel establishment requests, and which is known to and provided to the device 12(m) by the nameserver 17 (FF 3), wherein the Internet address in the request message packet may be associated with a device 13 external to the VPN as well as with a server 32(s) in the VPN 15 (FF 4).

Appellants provide no argument to dispute that the Examiner has correctly shown where this claimed element appears in the Provino. Thus, Appellants have not shown that the Examiner erred in finding that Provino teaches this claim feature.

Accordingly, we find that the Appellants have not shown that the Examiner erred in rejecting independent claim 1 and claims 2-13 depending therefrom and falling therewith under 35 U.S.C. § 102(e).

VI. CONCLUSIONS

(1) Appellants have not shown that the Examiner erred in finding that claims 1-13 are anticipated by the teachings of Provino.

(2) Claims 1-13 are not patentable over the prior art of record.

VII. DECISION

We affirm the Examiner's decision rejecting claims 1-13 under 35 U.S.C. § 102(e).

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED

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